UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/108
10 April 1997

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Association of Educators for World Peace, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 April 1997]

1. On 24 February 1996, two unarmed light civil aircraft registered in the United States were shot down by two MiG aircraft belonging to the Cuban air force: both countries are members of the Commission on Human Rights. The light aircraft, which were piloted by civilians carrying out a humanitarian search and rescue mission over the Straits of Florida, were flying in international airspace. Their destruction is a violation of the right to life of their four crew members, as set forth in article 3 of the Universal Declaration of Human Rights.

2. Armando Alejandre, a 45-year-old Cuban-born United States citizen, was flying for the second time to supply Cuban balseros (people who leave Cuba on makeshift rafts) who had been shipwrecked in the Bahamas; Carlos Costa, who was 29 and was born in the United States, had saved more than 400 balseros in the course of hundreds of missions over the Straits of Florida; Mario de la Pena, who was 24 years old and was born in the United States, had found and assisted many people lost at sea as a pilot; Pablo Morales, a 29-year-old Cuban-born United States resident, had himself been picked up in the Straits as a balsero in 1992.

3. On 24 February 1996, the anniversary of the outbreak of the war of independence against Spain was due to be celebrated. Concilio Cubano, a movement to unify the internal opposition on the island, had planned to hold a public meeting. As a result, as the date approached the Cuban Government intensified its repression of the movement, imprisoned numerous dissidents and prohibited the meeting.

4. The destruction of the light aircraft was part of a diversionary tactic by the Cuban Government to distract attention from the tense internal situation; the strategy began with a last-minute request by Cuba to the Bahamas for permission to visit the balseros' camp on 24 February. The visit, which prevented the mission originally planned for the light aircraft, i.e. to supply the balseros, from taking place, was cancelled by the Bahamas.

5. The flight plan was then changed to a search and rescue mission for balseros in the Straits of Florida. The first aircraft was shot down over international waters 21 nautical miles from Cuba at 3.21 p.m., and the second seven minutes later, 22 nautical miles from the island. The Cuban MiGs shot them down with missiles, completely obliterating the aircraft and their occupants and providing a spectacular culmination to the wave of repression.

6. The Cuban Government has admitted that its air force shot down the light aircraft. In an interview on 11 March 1996 with Time magazine, the Head of the Cuban Government acknowledged that the act was premeditated, as he had ordered the air force to shoot them down before the 24th, and he assumed direct responsibility for the act.

> "They shot the planes down. They are professionals. They did what they believed was the right thing. These are all people we trust, but I take responsibility for what happened."

7. The so-called evidence shown by the Head of the Cuban Government to the world to justify the destruction included a Cuban television broadcast by Juan Pablo Roque, a military pilot who deserted to the United States in 1992. Juan Pablo Roque who, according to Cuba had survived the aircrafts' destruction, gave evidence that he had participated in the fateful flight; in fact the evidence discredited him as he was in the Bahamas on 24 February and never flew in the light aircraft on that day.

8. The Government of Cuba has justified the aircrafts' destruction as a legitimate act of defence of its national sovereignty, but few people accept this argument. In a document entitled "Llamada a la Reconciliación y a la Paz" (Appeal for reconciliation and peace), published on 12 March 1996, the Cuban Catholic Church condemned it; in a letter dated Mothers' Day 1996, the political prisoners in Quivican prison (Havana) unanimously condemned it and Concilio Cubano has also expressed its disapproval of the destruction of the aircraft.

9. The United States Ambassador, Mrs. Madeleine K. Albright, made the following statement to the United Nations General Assembly on 6 March 1996:

> "But we cannot be silent when our citizens are murdered, and we will not allow the Cuban Government, which ordered this crime, to transfer blame to the victims of it."

The Ambassador presented transcripts of the conversations between the pilots and ground control in Cuba, proving that the fighter aircraft never attempted to make radio contact with the light planes, that they never approached them to force them to land, that they fired no warning shots and that they gave no warning that an attack was imminent.

10. In response to the destruction, the United States Congress adopted the Helms-Burton Act and introduced economic sanctions against foreign investors in Cuba using property confiscated by Cuba from the United States Government or citizens. The Department of Justice has initiated criminal investigations into the aircrafts' destruction.

11. The International Civil Aviation Organization (ICAO) carried out an investigation into the destruction at the request of the United Nations Security Council and the Governments of Cuba and the United States. The radar data provided by Cuba and by the United States gave different positions for the light aircraft shot down, and ICAO based its conclusions on the positions reported by particularly reliable sources: the Norwegian vessel Majesty of the Seas, belonging to the Caribbean Cruise Line, and the fishing vessel Tri-Liner. ICAO concluded that the aircraft had been shot down 9 and 10 nautical miles respectively outside Cuban territorial airspace. It also found that:

> "Means other than interception were available to Cuba, such as radio communication, but had not been utilized." (3.18)

Cuba never attempted to instruct the light aircraft to land. During the interception, "the standard procedures for manoeuvring and signals by the military interceptor aircraft, in accordance with ICAO provisions and as published in AIP Cuba were not followed" (3.20) by the MiGs. The resolution adopted by ICAO on 26 June 1996 confirmed that States must refrain from the use of weapons against civil aircraft in flight and that, when intercepting civil aircraft, the lives of persons on board and the safety of the aircraft must not be endangered. ICAO also stated that the use of weapons against civil aircraft in flight was incompatible with elementary considerations of humanity and violated customary international law.

12. The United Nations Security Council endorsed and approved this ICAO resolution (26 July 1996, resolution 1067) and concluded that the destruction "violated the principle that States must refrain from the use of weapons against civil aircraft in flight and that, when intercepting civil aircraft, the lives of persons on board and the safety of the aircraft must not be endangered". The Council further condemned "the use of weapons against civil aircraft in flight as being incompatible with elementary considerations of

humanity, the rules of customary international law as codified in article 3 bis of the Chicago Convention, and the standards and recommended practices set out in the annexes of the Convention and calls upon Cuba to join other States in complying with their obligations under these provisions;".

13. Other condemnations included that of the European Union which stated that, "regardless of the circumstances of the incident, there could be no excuse for the violation of international law and of human rights norms" (26 February 1996), and the Organization of American States is preparing a report on the shooting down of the aircraft. In his report on the situation of human rights in Cuba (22 January 1997) the Special Rapporteur of the Commission on Human Rights, Carl-Johan Groth, included the destruction of the aircraft among "violations of the right to life". In his analysis of the incident and of the documents made available to him by international organizations such as ICAO, Mr. Groth wondered whether:

> "the high command of the Cuban Army was aware that shooting down the aircraft would add a new obstacle to the already difficult relations between Cuba and the United States. It may thus legitimately be asked who in the Cuban Government has an interest in causing incidents that create such obstacles and why." (p. 14)

And he further asserted:

> "The Special Rapporteur considers that the shooting down of these aircraft was a premeditated act and that it constituted a violation of the right to life of four people." (p. 14)

14. The shooting down of the civil light aircraft by Cuba constitutes a violation of the right to life, of the right to fly over international waters and of the right of unarmed civil aircraft not to be attacked by military aircraft. It was premeditated, and deliberately disregarded the elementary principles of human rights.

15. Armando Alejandre, Carlos Costa, Mario de la Pena and Pablo Morales were murdered without warning according to the transcripts of the communications of the Cuban Armed Forces. The MiGs never attempted to communicate with the aircraft or instruct them to land. They fired no warning shots and gave no indication that the attack was imminent. They fired missiles containing 8 kilograms of powerful explosive which obliterated the light aircraft, making it impossible to recover any wreckage or the occupants' bodies.

16. There can be no excuse for this premeditated violation of the right to life.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/NGO/109
14 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Pax Christi International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[8 April 1997]

The human rights situation in the Islamic Republic of Iran

1. 1996 was one of the worst years as far as human rights abuses in Iran were concerned. The adoption of new laws gave suppression legal justification. The United Nations Special Representative's February 1997 report noted that public executions had doubled relative to the previous year. Most political executions have been carried out in secret and many dissidents were arrested and executed under the pretext of non-political offences or "disloyalty to Islam and the State". The Interior Minister acknowledged that in the last three months of the Iranian year (December 1996 through February 1997) 730 people were arrested on drug-trafficking charges every day. Many of these detainees were political activists

2. Women are denied their most rudimentary rights. More women are joining the Resistance against the Iranian regime every day. After 15 years of struggle against the misogynous regime in Iran, these pioneering women occupy key positions as leaders of the Resistance movement. The role of women in the democratic opposition of Iran, and the fact that this movement is led by a Muslim woman, cause the most serious challenge to the phenomenon of fundamentalism.

3. Religious minorities are suppressed. Several members of Sunni and Christian minorities have reportedly been murdered in the past year, while the Bahai's continue to be suppressed.

4. The Special Representative in his February report to the Commission stated that the Islamic Republic of Iran did not invite him to visit Iran because of the resolution approved by the Commission at its fifty-second session expressing concern over the continued violation of human rights in Iran. This is a clear attempt to blackmail the international community to keep silent over the human rights situation in Iran.

5. Despite an unprecedented crackdown and hundreds of suppressive military manoeuvres in the past months, public opposition against the regime has spread. Credible international media report a considerable influx of youth joining the democratic opposition's National Liberation Army of Iran. The young generation joining the resistance has sounded the alarm bells for the regime. To counter this phenomenon and to thwart popular uprisings, the Iranian regime has resorted to greater crackdown. During the Kermanshah demonstrations at least 50 were killed and more than 1,000 were arrested. The protests, however, are continuing throughout the country.

6. Seven years have passed since the cowardly assassination of Professor Kazem Rajavi, the representative of the National Council of Resistance of Iran, on 24 April 1990 in Coppet by terrorists dispatched from Tehran. The Swiss investigating magistrate, Judge Roland Chatelain, concluded that 13 members of the Iranian official services who carried diplomatic passports were directly involved in the murder.

7. In 1996, 32 Iranian dissidents were assassinated abroad, an unprecedented 300 per cent increase compared with the previous year. Judicial investigations into the assassination in Turkey of Mrs. Zahra Rajabi, a senior member of the National Council of Resistance of Iran, confirmed that a deputy consul in the Iranian consulate in Istanbul commanded the hit-squad. The regime's senior officials have actively pursued the murder of dissidents in and outside Iran.

8. According to the report: "Iran: State of Terror" published by the British Parliamentary Human Rights Group, "In 1996, artillery became part of the Iranian Government's arsenal of terrorist weaponry in the assassination plot against Maryam Rajavi, the President-elect of the Iranian Resistance." The weapons were discovered at the Belgian port of Antwerp. In January 1997, three of the same weapons were simultaneously fired at the office of the mujahedin opposition in the middle of Baghdad. Several innocent people were killed or wounded. Such policies pose great danger to peace and stability in the sensitive Middle East region.

9. Iran's rulers are continuing their active opposition to the Middle East peace process and the export of fundamentalism abroad. Their endeavours to obtain nuclear weapons is a source of deep concern for the international community. After a 3½-year trial, the indictment by Germany's Federal Prosecutor has implicated the Iranian regime, on the basis of a mass of irrefutable evidence, with State-sponsored terrorism. It identified the Tehran regime's leaders, Ali Khamanei and Hashemi Rafsanjani, as the main

principals behind the assassination of Iranian dissidents in Berlin. For years, State-sponsored terrorism has been one of the Iranian regime's main foreign policy instruments by way of support for terrorist groups and incitement to murder foreign nationals such as Salman Rushdie.

10. These developments, especially the proceedings in Germany's Federal Court, clearly reflect the need to reconsider the case of Professor Rajavi's murder. It is only appropriate that the Swiss Confederation and judicial system undertake the necessary measures via-à-vis the Iranian Government's refusal to extradite two of the killers who were regrettably returned to Iran by the French Government.

11. We believe that the current session of the Commission on Human Rights must take note of the threefold rise in executions in Iran in 1996 and also the alarming increase in extraterritorial killings. It must strongly condemn the flagrant and systematic violations of human rights in Iran and continue to monitor the situation of human rights in Iran until it secures the necessary and practical guarantees that human rights in Iran are respected, something which shows no signs of happening at present.

12. In backing the declaration by 1,750 parliamentarians in Europe and North America in 1995, we believe that the adoption of a decisive policy including an economic and diplomatic boycott of the Iranian regime, is imperative. Moreover, support for Maryam Rajavi, the President-elect of the National Council of Resistance, who, as a symbol of unity, is backed by the majority of the Iranian people, will contribute to the establishment of democracy in Iran and peace and stability in the region. This resistance and its 580-member parliament, which has committed itself to holding free elections and the creation of a secular and pluralist Government, is the best answer to the ominous spectre of fundamentalism as the new global threat.

13. These undeniable facts demonstrate that the policy of appeasement vis-à-vis the Iranian regime has backfired. "Critical dialogue" has failed and its continuation only invites the mullahs to persist in suppression and the export of terrorism. Today, therefore, there is growing opposition in Europe to the continuation of critical dialogue.